

G1TTBUDP

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

13 CR 368 (DLC)

6 ARTHUR BUDOVSKY,

7 Defendant.  
-----x

8 New York, N.Y.  
9 January 29, 2016  
3:00 p.m.

10 Before:

11 HON. DENISE L. COTE,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the  
Southern District of New York

17 SERRIN TURNER

18 CHRISTINE MAGDO

19 KEVIN MOSLEY

CHRISTIAN EVERDELL

Assistant United States Attorneys

JOHN KALEY

DONNA R. NEWMAN

JEFFREY PITTELL

DARRYL AUSTIN

Attorneys for Defendant

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1 (In open court)

2 DEPUTY CLERK: United States of America versus Arthur  
3 Budovsky. Is the government ready to proceed?

4 MR. TURNER: Yes, good afternoon, your, Serrin Turner  
5 for the government. With me at counsel table is AUSA Christine  
6 Magdo, AUSA Kevin Mosley, AUSA Chris Everdell, Special Agent  
7 Tate Jarrow from the Secret Service, paralegals Nicholas Evert  
8 and Molly Rosen as well.

9 DEPUTY CLERK: And for the defendant Budovsky.

10 MR. KALEY: Good afternoon, your Honor, John Kaley for  
11 Mr. Budovsky, who is seated to my right, with Donna R. Newman,  
12 Jeffrey Pittell and Darryl Austin.

13 THE COURT: Good afternoon. I will take a report from  
14 you, Mr. Turner.

15 MR. TURNER: Your Honor, I have been informed by the  
16 defense that the defendant intends to enter a plea to Count One  
17 of the indictment, which the government is willing to accept.

18 THE COURT: And you're willing to accept that in full  
19 satisfaction of the three charges in the indictment?

20 MR. TURNER: Correct, your Honor.

21 THE COURT: Mr. Budovsky, please stand.

22 Do you require the services of an interpreter?

23 THE DEFENDANT: No, I do not.

24 THE COURT: Before accepting your plea, I'm going to  
25 ask you certain questions to establish to my satisfaction that

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1 you're pleading guilty because you are guilty and not for some  
2 other reason. If at any time you do not understand my  
3 questions or if you wish for a further opportunity to consult  
4 with your lawyers, will you let me know?

5 THE DEFENDANT: Yes, I will.

6 THE COURT: Please place the defendant under oath.

7 (Defendant sworn)

8 THE COURT: You are now under oath, and if you answer  
9 any of my questions falsely, you can be prosecuted for perjury.  
10 Do you understand that?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: What is your full name?

13 THE DEFENDANT: Arthur Budovsky Belanchuk.

14 THE COURT: And how do you spell that last name?

15 THE DEFENDANT: There are two. The first last name is  
16 B-U-D-O-V-S-K-Y, the second last name is B-E-L-A-N-C-H-U-K.

17 THE COURT: Thank you. How old are you?

18 THE DEFENDANT: 42.

19 THE COURT: How far did you go in school?

20 THE DEFENDANT: Finished two years out of college.

21 THE COURT: Two years of college?

22 THE DEFENDANT: Two years of college.

23 THE COURT: Thank you. Have you ever been treated or  
24 hospitalized for any mental illness?

25 THE DEFENDANT: No.

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1                   THE COURT: Are you now or have you recently been  
2 under the care of a doctor or psychiatrist?

3                   THE DEFENDANT: Psychiatrist in prison, but I'm not  
4 under his care.

5                   THE COURT: And are you under the care of any medical  
6 personnel for any medical condition now?

7                   THE DEFENDANT: No.

8                   THE COURT: Are you taking --

9                   MS. NEWMAN: Excuse me, if I may.

10                  (Pause)

11                  MR. KALEY: Your Honor, he is receiving some  
12 medications.

13                  THE DEFENDANT: It's for the sugar condition. I have  
14 diabetes type 2.

15                  THE COURT: And what medication do you take for that  
16 condition?

17                  THE DEFENDANT: Metformin. It's a pill.

18                  THE COURT: And does the metformin that you take  
19 affect your ability to understand what's happening here?

20                  THE DEFENDANT: Absolutely not.

21                  THE COURT: Does it affect your ability to consult  
22 with your attorneys?

23                  THE DEFENDANT: No.

24                  THE COURT: Does it affect your ability to remember  
25 what happened in the past?

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1                   THE DEFENDANT: No.

2                   THE COURT: In the last 24 hours have you taken any  
3 other drugs besides the metformin, any medicine, pills of any  
4 kind besides the metformin?

5                   MS. NEWMAN: If I might, your Honor, because I want  
6 the record accurate.

7                   (Pause)

8                   MR. KALEY: Your Honor, Mr. Budovsky was taking some  
9 other medication for antidepression. He hasn't taken it in the  
10 last few days, but if the Court wants to inquire about it.

11                  THE DEFENDANT: I don't know if it's immediately today  
12 or in the past.

13                  THE COURT: I asked you specifically about the last 24  
14 hours.

15                  THE DEFENDANT: 24 hours I didn't take any medication.

16                  THE COURT: But you are also under the care of a  
17 physician or a psychiatrist to treat depression?

18                  THE DEFENDANT: Yes.

19                  THE COURT: And you have been prescribed medication  
20 for that condition?

21                  THE DEFENDANT: Yes.

22                  THE COURT: And you haven't taken that medication in  
23 the last 24 hours. Do I understand that correctly?

24                  THE DEFENDANT: That's correct.

25                  THE COURT: Now has anything about that experience of

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1 depression affected your ability to understand today what is  
2 happening in court?

3 THE DEFENDANT: No.

4 THE COURT: Has it impaired your ability to discuss  
5 this case with your lawyers?

6 THE DEFENDANT: No.

7 THE COURT: Do you believe that your mind is clear  
8 today?

9 THE DEFENDANT: Yes.

10 THE COURT: You understand what is happening here?

11 THE DEFENDANT: Yes.

12 THE COURT: Do any counsel have any doubt as to the  
13 defendant's competence to enter a plea of guilty?

14 MR. KALEY: No, your Honor.

15 MS. NEWMAN: No, your Honor.

16 MR. PITTELL: No.

17 THE COURT: So the three defense counsel have each  
18 individually answered no.

19 I will ask the government, does the government have  
20 any doubt as to the defendant's competence to enter a plea of  
21 guilty today?

22 MR. TURNER: No, your Honor.

23 THE COURT: Thank you.

24 Based on the defendant's responses to my questions,  
25 his demeanor as he stands here before me, I find he is

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1 competent to enter a plea of guilty at this time.

2 Now Mr. Budovsky, have you had a sufficient  
3 opportunity to discuss your case with your lawyers?

4 THE DEFENDANT: Yes.

5 THE COURT: Have you had a sufficient opportunity to  
6 discuss with them Count One of the indictment?

7 THE DEFENDANT: Part one?

8 THE COURT: Count One.

9 THE DEFENDANT: Yes.

10 THE COURT: And have you had a sufficient opportunity  
11 to discuss with them your intention to plead guilty to Count  
12 One, any defenses that you might have to the charge in Count  
13 One, and also the consequences to you of entering a plea to the  
14 charge in Count One?

15 THE DEFENDANT: Yes.

16 THE COURT: Are you satisfied with the representation  
17 your attorneys have given you?

18 THE DEFENDANT: Yes, I am.

19 THE COURT: I'm now going to explain certain  
20 constitutional rights that you have. You will be giving up  
21 these rights if you enter a plea of guilty.

22 Under the Constitution and laws of the United States,  
23 you're entitled to a speedy and public trial by a jury on the  
24 charges contained in the indictment that's been filed against  
25 you. Do you understand that?

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1                   THE DEFENDANT: Yes.

2                   THE COURT: And you know that trial is scheduled to  
3 begin on Monday?

4                   THE DEFENDANT: Yes.

5                   THE COURT: At that trial, you would be presumed to be  
6 innocent, and the government would be required to prove you  
7 guilty by competent evidence and beyond a reasonable doubt  
8 before you could be found guilty. You would not have to prove  
9 that you were innocent, and a jury of twelve people would have  
10 to agree unanimously that you were guilty. Do you understand  
11 that?

12                  THE DEFENDANT: Yes, I understand.

13                  THE COURT: At that trial, and at every stage of your  
14 case, you would be entitled to be represented by a lawyer, and  
15 if you could not afford one, one would be appointed to  
16 represent you. Do you understand that?

17                  THE DEFENDANT: Yes.

18                  THE COURT: During the trial, the witnesses for the  
19 government would have to come to court and testify in your  
20 presence, and your lawyer could object to evidence offered by  
21 the government, cross-examine the witnesses called by the  
22 government, and, if you desired, issue subpoenas, offer  
23 evidence, and even compel witnesses to come to court and  
24 testify on your behalf. Do you understand that?

25                  THE DEFENDANT: Yes.

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1                   THE COURT: At that trial, although you would have the  
2 right to testify if you chose to do so, you would also have the  
3 right not to testify, and no inference or suggestion of guilt  
4 could be drawn from the fact that you did not testify if that  
5 is what you chose to do. Do you understand that?

6                   THE DEFENDANT: Yes, I understand.

7                   THE COURT: Do you understand that if you were  
8 convicted at a trial that you would have the right to appeal  
9 from that verdict? Do you understand that?

10                  THE DEFENDANT: Yes.

11                  THE COURT: Even at this time right now, even as  
12 you're entering this plea, you have the right to change your  
13 mind and plead not guilty and go to trial. Do you understand  
14 that?

15                  THE DEFENDANT: Yes, I do.

16                  THE COURT: If you plead guilty and I accept your  
17 plea, you will give up your right to a trial and all the other  
18 rights I have just described. There will be no trial. And I  
19 will enter a judgment of guilty and sentence you based on this  
20 plea after I read whatever submissions I get from you and your  
21 lawyers and the government's lawyers and after I read a  
22 presentence report prepared by the probation department. Do  
23 you understand that?

24                  THE DEFENDANT: Yes.

25                  THE COURT: If you plead guilty, you're also going to

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1 give up your right not to incriminate yourself because I'm  
2 going to ask you today what you did, and you're going to have  
3 to describe your conduct to me. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Now let me make sure you understand what  
6 you're charged with in Count One. Count One in general terms  
7 is referred to as a money laundering conspiracy. A conspiracy  
8 is an agreement between two or more people to violate the law.

9 Count One charges that you were a knowing and willing  
10 participant in the conspiracy charged there. It charges that a  
11 conspiracy existed between approximately 2006 and May 2013, and  
12 that at least some activities in connection with that  
13 conspiracy occurred here in the Southern District of New York,  
14 which includes Manhattan and the Bronx, among other locations.  
15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: It charges that the goal of this  
18 conspiracy -- and let me ask the government, with respect to  
19 the goals of the conspiracy, as I understand it, there are two  
20 listed in the indictment. Is the plea proceeding, as far as  
21 the government's concerned, with respect to both goals?

22 MR. TURNER: Either one is sufficient, your Honor.  
23 The first goal I think largely overlaps with the second in any  
24 event.

25 THE COURT: Fine. I will instruct the defendant with

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1 respect to both goals.

2 MR. TURNER: Thank you.

3 THE COURT: Count One charges that there were two  
4 goals of this conspiracy. The first is that you and others,  
5 knowing that the property involved in certain financial  
6 transactions represented the proceeds of some form of unlawful  
7 activity, essentially felony violations of law, would and did  
8 conduct financial transactions which in fact did involve the  
9 proceeds of specified unlawful activity. Now I'm going to list  
10 some of the specified unlawful activity charged here in this  
11 count in a moment. And that at that time you knew that the  
12 transactions were designed, in whole or in part, to conceal or  
13 disguise the nature, the location, the source, the ownership or  
14 the control of the proceeds of the unlawful activity. Do you  
15 understand that's part of the charge against you?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: Now I referred to the fact that the  
18 financial transactions had to involve the proceeds of specified  
19 unlawful activity. Specifically charged in this count, the  
20 specified unlawful activity includes the following: Identity  
21 theft, access device fraud, computer hacking, wire fraud, child  
22 pornography, and narcotics trafficking. Do you understand  
23 that's part of the charge against you?

24 THE DEFENDANT: Yes.

25 THE COURT: Let me go to the second goal. It's

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1 charged that it was also a goal of the conspiracy that you and  
2 others would transport, transmit, or transfer money instruments  
3 or funds from places in the United States to or through places  
4 outside the United States and to places in the United States  
5 from places outside the United States, all the while knowing  
6 that the instruments or funds involved the transportation or  
7 transfer of proceeds of some form of unlawful activity, and  
8 knowing that the transfers were designed, in whole or in part,  
9 to conceal or disguise, again, the nature, location, source,  
10 ownership, or control of the proceeds of specified unlawful  
11 activity. Do you understand that's part of the charge against  
12 you?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: And again, that same list of specified  
15 unlawful activity applies to this goal of the conspiracy. Do  
16 you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: And I should have mentioned in connection  
19 with the first goal, of course, that those financial  
20 transactions are charged also to have been conducted in a way  
21 that involved or affected United States commerce, either  
22 interstate or foreign commerce. You understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: Let's talk about the elements of some of  
25 these specified unlawful activity crimes. And in terms of the

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1 allocution, Mr. Kaley, I want to make sure I'm focusing on what  
2 would be most pertinent here.

3 MR. KALEY: Your Honor, it's wire fraud and high yield  
4 investment programs.

5 THE COURT: Thank you.

6 So wire fraud would be 1343, and let me start there.  
7 The crime of wire fraud contains several elements, and let me  
8 describe those to you. The crime is committed by someone who  
9 devises or intends to devise a scheme or artifice to defraud or  
10 to obtain money or property by means of false or fraudulent  
11 pretenses, representations, or promises, and transmits or  
12 causes to be transmitted by means of wire communication in  
13 interstate or foreign commerce any writings, pictures, signals,  
14 or sounds for the purpose of executing that scheme or artifice  
15 to defraud. Do you understand that that is a description of  
16 the crime of wire fraud?

17 THE DEFENDANT: Yes, I understand.

18 THE COURT: And which other statute, Mr. Turner,  
19 should I be describing here in connection with high yield  
20 investment programs?

21 MR. TURNER: I think wire fraud covers it, your Honor.

22 THE COURT: So having described to the defendant the  
23 elements of Section 1343, I will capture both of the schemes  
24 that are described -- well, both wire fraud itself and frauds  
25 connected with high yield investment programs.

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1                   MR. TURNER: The high yield investment programs are  
2 the wire frauds to further Ponzi schemes.

3                   THE COURT: Thank you.

4                   Let me describe the penalties that apply to a plea of  
5 guilty with respect to Count One, the money laundering charge.  
6 It carries a maximum term of imprisonment of 20 years, a  
7 maximum term of supervised release of three years, a maximum  
8 fine of \$500,000 or twice the value of the property involved in  
9 the transaction, whichever is greater, and a requirement that  
10 you pay a special assessment of \$100. Do you understand that?

11                  THE DEFENDANT: Yes.

12                  THE COURT: Now supervised release means that you will  
13 be subject to monitoring when released from prison. There are  
14 terms of supervised release with which you must comply, and if  
15 you do not comply with them, you could be returned to prison  
16 without a jury trial and be given no credit for any time you  
17 already spent in prison and no credit for any time that you  
18 spent on post-release supervision. Do you understand that?

19                  THE DEFENDANT: Yes.

20                  THE COURT: There may also be a requirement that you  
21 pay restitution in connection with this offense. Do you  
22 understand that?

23                  THE DEFENDANT: Yes.

24                  THE COURT: Are you a citizen of this country?

25                  THE DEFENDANT: No.

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1                   THE COURT: Do you understand that a conviction of  
2 this crime could make it far easier for the government to  
3 deport you from this country? Do you understand that?

4                   THE DEFENDANT: Yes, I do.

5                   THE COURT: Have you discussed the immigration  
6 consequences of this conviction with your attorneys?

7                   THE DEFENDANT: Yes, I have.

8                   THE COURT: There may also be a requirement that you  
9 make forfeiture in connection with this conviction. Do you  
10 understand that?

11                  THE DEFENDANT: Yes.

12                  THE COURT: Now do you understand that if your  
13 attorney or anyone else has attempted to predict to you what  
14 your sentence might be, that their prediction could be wrong?  
15 Do you understand that?

16                  THE DEFENDANT: Yes.

17                  THE COURT: No one, not your lawyer, not the  
18 government's lawyer, can give you any assurance of what your  
19 sentence will be because I will decide your sentence, but I'm  
20 not going to it now, I am going to wait. I will wait until I  
21 get a presentence report prepared by the probation department,  
22 do any own independent calculation of your sentencing  
23 guidelines range, decide whether I should depart up or down  
24 from that range, look at all the other information that's been  
25 presented to me, consider the factors set forth in the section

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1 of the law we call Section 3553(a), and only then, after that  
2 whole process, will I decide what a reasonable sentence is for  
3 you. Do you understand that?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: Even if your sentence is different from  
6 what your attorney or anyone else has told you it might be,  
7 even if it's different from what is calculated in your plea  
8 agreement, if you have one with the government, you are still  
9 going to be bound by your plea of guilty and cannot withdraw  
10 your plea of guilty. Do you understand that?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: Now has anyone threatened you or anyone  
13 else or forced you to plead guilty?

14 THE DEFENDANT: No.

15 THE COURT: Now I understand there has been a plea  
16 agreement between you and government. Do you have a copy of it  
17 in front of you right now?

18 MR. KALEY: We do, your Honor.

19 THE COURT: Does it have the date, Mr. Budovsky, of  
20 January 26 on the first page?

21 THE DEFENDANT: Yes.

22 THE COURT: Does it have six pages in all?

23 THE DEFENDANT: Yes.

24 THE COURT: Is your signature on the last page?

25 THE DEFENDANT: Yes.

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1                   THE COURT: What's the date next to your signature?

2                   THE DEFENDANT: January 29.

3                   THE COURT: That's today. Did you sign this today?

4                   THE DEFENDANT: Yes, I did.

5                   THE COURT: Before you signed this document, did you  
6 read it?

7                   THE DEFENDANT: Yes, I did.

8                   THE COURT: Before you signed this document, did you  
9 discuss it with your lawyers?

10                  THE DEFENDANT: Yes.

11                  THE COURT: When you signed this document, did you  
12 think you had a good understanding of its terms?

13                  THE DEFENDANT: Yes.

14                  THE COURT: You understand that in this document you  
15 and the government agreed that your sentencing guidelines range  
16 is 360 months to life imprisonment. Do you understand that?

17                  THE DEFENDANT: Yes, I do.

18                  THE COURT: Do you understand, however, because the  
19 count to which you are pleading guilty carries a maximum term  
20 of 20 years imprisonment, that maximum term of imprisonment is  
21 below the sentencing guidelines range as calculated in this  
22 document? Do you understand that?

23                  THE DEFENDANT: Yes.

24                  THE COURT: Do you understand that by signing this  
25 document you have given up your right to appeal or challenge or

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1 litigate your sentence so long as I don't sentence you to more  
2 than 20 years in prison? Do you understand that?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: Now do you have any agreement with the  
5 government about your plea or about your sentence that has been  
6 left out of this written plea agreement?

7 THE DEFENDANT: No.

8 THE COURT: Tell me in your own words what you did  
9 that makes you believe you're guilty of the crime you're  
10 charged with in Count One.

11 THE DEFENDANT: On or about 2002 I was approached by  
12 Vladimir Katz to assist him in his development of Liberty  
13 Reserve virtual currency, and I accepted his offer. Although  
14 we kicked around the concepts for a while, as I recall, it was  
15 not until about 2005 that Liberty Reserve was launched by  
16 booting up a web site.

17 THE COURT: Slow down, please.

18 So it was launched in 2005, as you remember, by  
19 putting up a web site?

20 THE DEFENDANT: Yes.

21 THE COURT: Thank you.

22 THE DEFENDANT: I knew from my knowledge of other  
23 virtual currencies, from what Katz advised me of, and from my  
24 participating in various online forums, that virtual  
25 currencies, because it did business solely via the internet,

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1 was susceptible to use and abuse by criminals. For example, I  
2 was aware that high yield investment programs run by fraudsters  
3 were Ponzi schemes and that these high yield investment  
4 programs were attracted to E-currency.

5 THE COURT: Were attractive to?

6 THE DEFENDANT: Attracted to E-currency.

7 THE COURT: To which currency?

8 THE DEFENDANT: To Liberty Reserve and others, all the  
9 currencies.

10 MR. KALEY: The word he is using, your Honor, is  
11 "E-currency."

12 THE COURT: E-currency?

13 MR. KALEY: Yes.

14 THE COURT: They were attracted to E-currencies?

15 THE DEFENDANT: Mm-hmm.

16 THE COURT: Thank you.

17 THE DEFENDANT: I knew they would, and in fact did,  
18 use Liberty Reserve. I knew that Liberty Reserve had  
19 insufficient safeguards, insufficient anti-money laundering  
20 procedures in place to minimize Liberty Reserve's use by these  
21 HYIPS, which is high yield investment programs.

22 THE COURT: HYIP?

23 THE DEFENDANT: Yes, it's short for the high yield  
24 investment programs.

25 I knew that Liberty Reserve had features that criminal

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1 users utilized to conceal their identity and to launder their  
2 criminal proceeds. I knew that there was a percentage of users  
3 from the United States. I knew that facilitating money  
4 laundering for the United States users was contrary to the  
5 United States law. I was involved with Liberty Reserve in one  
6 capacity or another from 2002 to 2013. I had developed a  
7 networking platform and the networking infrastructure for the  
8 business of Liberty Reserve, and I knew what I did was illegal.

9 THE COURT: You knew what?

10 THE DEFENDANT: What I did was illegal.

11 THE COURT: You knew what you were doing was wrong?

12 THE DEFENDANT: Yes.

13 THE COURT: You understood at the time it was a  
14 violation of U.S. law?

15 THE DEFENDANT: Yes.

16 THE COURT: Now I think I heard you say that Liberty  
17 Reserve had features which you understood at the time were  
18 designed to help criminals transmit their funds and conceal  
19 their source and identity. Did I understand that correctly?  
20 Did you refer to features?

21 MR. KALEY: Just one second.

22 MS. NEWMAN: Sorry, your Honor.

23 (Pause)

24 THE COURT: I think I should reflect for the record  
25 what is happening here. Mr. Budovsky, you were reading to me

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1 from a document, is that right?

2 THE DEFENDANT: Yes.

3 THE COURT: Did you help prepare that document?

4 THE DEFENDANT: Yes.

5 THE COURT: Did you review it carefully before you  
6 read it to me?

7 THE DEFENDANT: Yes, I have.

8 THE COURT: Did you believe at the time you were  
9 reading it to me that everything you said in that document was  
10 truthful and accurate?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. I think I heard you refer to  
13 certain features, and I am not sure I captured everything you  
14 said at that time. And so if you could just tell me what you  
15 were referring to when you referred to features of Liberty  
16 Reserve.

17 THE DEFENDANT: Well, Liberty Reserve did not require  
18 all users to provide identification documents, and in many  
19 cases did not follow up on a consistent basis with the  
20 identification process, thereby allowing users a level of  
21 anonymity that facilitated their ability to conceal their  
22 identity and the nature of monies passing through the Liberty  
23 Reserve system.

24 THE COURT: Concealed their identity and what?

25 THE DEFENDANT: And nature of the monies passing

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1 through the Liberty Reserve system.

2 THE COURT: Nature of the monies transferred through  
3 the Liberty Reserve system?

4 THE DEFENDANT: Yes.

5 THE COURT: I'm trying to make sure I capture all your  
6 words.

7 Does the government agree there's a sufficient factual  
8 predicate for a plea?

9 MR. TURNER: The government asks the defendant  
10 allocute on certain matters, your Honor. The allegation  
11 against the defendant is that he knowingly agreed with others  
12 to conduct financial transactions by operating Liberty Reserve.  
13 That's the allegation. I didn't hear that admitted here today.  
14 I heard him say that he designed -- did work on the platform or  
15 something like that. The allegation is that he ran Liberty  
16 Reserve and that is how he conducted these financial  
17 transactions. That's one thing we would like the defendant to  
18 allocute.

19 MR. KALEY: I think the allocution satisfies all the  
20 elements of the offense. He indicated that he was working with  
21 Katz. He set up the networking platform and the networking  
22 infrastructure. He was aware that it was being used for money  
23 laundering purposes from proceeds of unlawful activity,  
24 specifically the high yield investment programs. So the  
25 elements of a conspiracy were the agreement with Katz, at a

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1 minimum. So clearly the elements have been satisfied.

2 THE COURT: Okay. Mr. Budovsky, keep your voice up so  
3 I can hear everything you have to say to me.

4 THE DEFENDANT: Okay.

5 THE COURT: As I understood what you were telling me,  
6 you were well aware at the time you were involved with Liberty  
7 Reserve, which was roughly 2005 to 2013 --

8 THE DEFENDANT: Mm-hmm.

9 THE COURT: -- that criminals were using Liberty  
10 Reserve's services to move proceeds of their criminal activity  
11 through Liberty Reserve in conducting financial transactions.  
12 Did I understand that correctly?

13 THE DEFENDANT: Yes.

14 THE COURT: And you described to me part of the  
15 Liberty Reserve design, and I understood you to be saying that  
16 part of the way you designed Liberty Reserve, along with  
17 others, was to make sure it didn't have the anti-money  
18 laundering features that it should have had so that these  
19 criminals could use Liberty Reserve's services to hide their  
20 criminal activity. Did I understand that correctly?

21 THE DEFENDANT: Yes, you did.

22 THE COURT: And in designing Liberty Reserve this way  
23 and operating it this way, were you working with others who had  
24 that same intent and purpose?

25 THE DEFENDANT: Yes.

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1                   THE COURT: And was one of those people with whom you  
2 were working with that same intent and purpose Mr. Katz?

3                   THE DEFENDANT: Yes.

4                   THE COURT: We're pausing while the government  
5 consults.

6                   MS. MAGDO: One moment, your Honor, excuse me.

7                   (Pause)

8                   MR. TURNER: Your Honor, we ask for clarifications on  
9 a couple of things. First, I know your Honor mentioned the  
10 word "operating," I just didn't hear it clearly come through  
11 the defendant he admitted operating Liberty Reserve.

12                  The second thing is in terms of the conspirators  
13 involved. Mr. Katz left Liberty Reserve -- was kicked out of  
14 Liberty Reserve in 2008. So in terms of the continuing  
15 conspiracy, we would ask the defendant to allocute there were  
16 other conspirators with whom he agreed to operate the Liberty  
17 Reserve after that point, including Mark Marmilev, as an  
18 example.

19                  And I think it would also help, just to have a clear  
20 allocution, that there were transactions that the defendant was  
21 aware of that he knew came from criminal activity and that he  
22 knew were designed to conceal the proceeds of that activity.  
23 Just to get a straight allocution to that.

24                  MR. KALEY: As to the latter question, your Honor, I  
25 think that has been said more than once.

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1                   Regarding the conspiracy continuing after Mr. Katz  
2 left in 2009, I am sure Mr. Budovsky would be prepared to say  
3 that the conspiracy continued with others. And I think that  
4 should be more than sufficient if your Honor wants to ask that  
5 question.

6                   THE COURT: Thank you, counsel, and I appreciate  
7 everyone is being careful here, and I appreciate your  
8 assistance.

9                   So Mr. Budovsky, give me an example of something you  
10 did to help operate Liberty Reserve during the period 2005 to  
11 2013.

12                  THE DEFENDANT: I hired some employees for the  
13 customer support. I had installed the network infrastructure.  
14 I had to teach them how to use customer support, and worked  
15 with -- I caused accounts, bank accounts, to be opened, and I  
16 caused money to be moved from Costa Rica to other countries.

17                  THE COURT: And you heard the government just now  
18 mention that Mr. Katz wasn't associated with Liberty Reserve  
19 from some point in 2008 going forward, so let me focus on that  
20 period of time.

21                  During the period of time 2008 to 2013, you told me  
22 you were engaged in the operation of Liberty Reserve. Did I  
23 understand that correctly?

24                  THE DEFENDANT: Yes.

25                  THE COURT: Okay. And during that time, did you have

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1 an agreement with others at Liberty Reserve to help violate the  
2 law in the way you've described to me, that is, knowingly  
3 facilitating the transfer of criminal proceeds from activities  
4 like wire fraud? Did you do that with others?

5 THE DEFENDANT: Yes.

6 THE COURT: And it was the goal of you and those  
7 others during that latter period of time to also help conceal  
8 the ownership and source of those illegal funds that were being  
9 transmitted through Liberty Reserve. Do I understand that  
10 correctly?

11 THE DEFENDANT: Yes.

12 THE COURT: Now how did you know that any of the  
13 proceeds you have just described to me came from wire fraud,  
14 including high yield investment programs? How did you acquire  
15 that knowledge?

16 THE DEFENDANT: From visiting numerous forums where  
17 such high yield investment programs were discussed, and it was  
18 mentioned that Liberty Reserve was being used by some of them.

19 THE COURT: And I think, if I remember correctly, you  
20 also told me that, in part, you participated in the design of  
21 features at Liberty Reserve that would facilitate that  
22 concealment of illegal money transfers, am I right?

23 THE DEFENDANT: Yes.

24 THE COURT: Does the government have further questions  
25 that it wishes me to put to the defendant?

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1                   MR. TURNER: Only as to to venue, your Honor. I don't  
2 know if you intend to address that separately.

3                   THE COURT: So you mentioned in your allocution to me,  
4 Mr. Budovsky, that you were aware that some of these criminal  
5 funds were coming in or out of the United States. We're here  
6 in the Southern District of New York, which again includes  
7 Manhattan and the Bronx. Were you aware of any of the money  
8 transfers that involved illegally obtained funds moving in or  
9 out of New York through the services of Liberty Reserve?

10                  MS. NEWMAN: If I may have a moment.

11                  Thank you very much, your Honor.

12                  (Pause)

13                  MR. KALEY: Your Honor, I think the answer to that is  
14 we're not challenging the fact that it happened. We have seen  
15 documentation reflecting that money en route passed through an  
16 intermittent bank in the Southern District, and we are also  
17 aware one of the victims who had a Liberty Reserve account was  
18 living in the Bronx. And so that would establish the venue.

19                  As to whether or not Mr. Budovsky was specifically  
20 aware that this person lived in the Bronx, I don't believe that  
21 he did, but we're not contesting that, and so I think the  
22 allocution is more than sufficient.

23                  THE COURT: Did you do anything while you were in  
24 Manhattan or the Bronx to assist the Liberty Reserve operation  
25 either by helping design it or set it up or facilitate it in

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1 any way, Mr. Budovsky?

2 THE DEFENDANT: While I was living in the U.S.?

3 THE COURT: Yes.

4 THE DEFENDANT: Yes.

5 THE COURT: Give me an example of something you did  
6 while you were in Manhattan or the Bronx to help establish  
7 Liberty Reserve, just an example.

8 THE DEFENDANT: I developed a protection scheme, which  
9 I know that a lot of virtual currencies are susceptible for, so  
10 I devised a way to protect the web site against that. And I  
11 had worked with Mark Marmilev, before he pled guilty as well,  
12 and we were working together on technical aspects of the web  
13 site.

14 THE COURT: And that is while you were here in  
15 Manhattan?

16 THE DEFENDANT: Yes, while I was here in Manhattan.

17 THE COURT: And you said you -- I didn't catch every  
18 word you first said to me. You had worked on designing what?

19 THE DEFENDANT: It's a distributed denial-of-service  
20 attack. This is a part of a networking solution for any web  
21 site that is online.

22 MR. TURNER: Perhaps I could simplify things, your  
23 Honor, by making a proffer. The defendant, by operating the  
24 reserve, caused the web site to be transmitted to the Southern  
25 District of New York, among many other places. And that alone

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1 is an act in furtherance of the conspiracy that is sufficient  
2 for venue under Second Circuit case law.

3 MR. KALEY: We're not challenging that, your Honor.

4 THE COURT: The defendant isn't challenging venue.  
5 And I can take a proffer from the government, that's fine, but  
6 the defendant has added his own knowledge of activities in the  
7 Southern District of New York that facilitated this crime.

8 Okay. Does defense counsel agree there's a sufficient  
9 factual predicate for a plea?

10 MR. KALEY: Yes, your Honor.

11 THE COURT: Mr. Kaley, do you know of any reason why I  
12 should not accept this plea?

13 MR. KALEY: No, your Honor.

14 THE COURT: So Mr. Budovsky, since you acknowledge  
15 that you are in fact guilty as charged in Count One of the  
16 indictment, since I am satisfied that you know of your rights,  
17 including your right to go to trial, and that you're aware of  
18 the consequences of your plea, including the sentence that may  
19 be imposed, and since I find you're voluntarily pleading  
20 guilty, I accept this plea and enter a judgment of guilty on  
21 Count One of the indictment.

22 At some point here the probation department is going  
23 to want to interview you. If you speak with them, make sure  
24 anything you say is truthful and accurate. They prepare a  
25 report, and that report is important to me in deciding what

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1 sentence to impose. You read it with care as well before  
2 sentence. If you see any errors in it, point them out to your  
3 attorneys. Will you do that?

4 THE DEFENDANT: Yes, I will.

5 THE COURT: You may be seated.

6 Mr. Kaley, will you cooperate with the probation  
7 department so that the defendant can be interviewed within the  
8 next two weeks?

9 MR. KALEY: Certainly, your Honor.

10 THE COURT: Thank you.

11 Sentence is set for --

12 MR. KALEY: I was going to ask your Honor for a day in  
13 June. I think because of the fact that there are many records  
14 relating to Mr. Budovsky overseas, it may take some time to get  
15 them. Plus, we want an opportunity to do our own sentencing  
16 submission. So we were going to ask your Honor for a date in  
17 early June.

18 THE COURT: I'm going to set it in early May, three  
19 months out, which is customary in this district for  
20 incarcerated defendants and other defendants.

21 Sentence is set for --

22 DEPUTY CLERK: Friday, May 6 at 3:00 p.m.

23 Any defense submissions regarding sentence shall be  
24 due April 22nd, the government's response due April 29.

25 THE COURT: Mr. Turner, is there anything else that we

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1 need to do from the government's point of view?

2 MR. TURNER: No, your Honor. Thank you.

3 THE COURT: Mr. Kaley, is there anything else that we  
4 need to do from the defendant's point of view?

5 MR. KALEY: No, your Honor.

6 THE COURT: Thank you.

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